

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES

V.

CR. NO. 04-10202-RWZ

EARL DICKERSON

DEFENDANT'S MOTION TO SUPPRESS EVIDENCE WITH INCORPORATED
MEMORANDUM OF LAW

Defendant Earl Dickerson, by his attorney, moves that this Court, pursuant to Federal Rule of Criminal Procedure 12, suppress all evidence seized during the March 9, 2004, search of his home at 9 Westcott Street, apartment #2, Dorchester, Massachusetts, including all items listed on the inventory and return of search warrant as set forth in "Exhibit A."

As reasons for suppression, Mr. Dickerson states that the search of his home by the Boston Police was in violation of constitutional rights guaranteed him by the Fourth Amendment to the United States Constitution in that:

1. The Boston Police failed to knock and announce their presence prior to forcibly entering Mr. Dickerson's home as required by the search warrant;
2. There were no particular circumstances that would have allowed the Boston Police to bypass the knock and announce requirement; all as more fully set forth below and in the attached documentation hereto.

On March 9, 2004, Boston Police Officer Paul T. Quinn applied to the Dorchester District Court for a warrant to search Mr. Dickerson's home at 9 Westcott Street,

apartment #2, Dorchester, Massachusetts. The search warrant was authorized and required the police to 'knock and announce' their presence prior to entry. (See Exhibit A). They did not.

On March 9, 2004, between 7:30 and 7:50 pm, Janet Royston, Mr. Dickerson's mother, was in her home at 9 Westcott Street, apartment #2, Dorchester, Massachusetts when she heard a loud crashing sound. Hearing this, she immediately checked the stairway leading to the third-floor, and, after finding no activity, then checked the stairway leading from the second floor to the first floor entrance. Ms. Royston had descended approximately five steps down said stairway when a group of men broke down the door at the bottom of the stairway, rushed up the stairs with their guns pointed at her, forced her down onto the stairs, and handcuffed her. Although Ms. Royston would subsequently learn that these men were police officers, they never identified themselves as such to Ms. Royston before or after they forcibly entered her residence. In fact, at no time did Ms. Royston hear the Boston Police knock on her door, ring her door bell, or announce their presence and purpose, in any manner, prior to their forcible entry into her home. (See Exhibit B, Affidavit of Janet Royston).

The Boston Police exceeded the authority of, and improperly executed the search warrant for 9 Westcott Street, apartment #2, Dorchester Massachusetts when they failed to knock and announce their presence and purpose before forcibly entering Mr. Dickerson's home. Due to failure of the Boston Police to knock and announce their presence and purpose before forcibly entering Mr. Dickerson's home, the search was unreasonable and therefore a violation of Mr. Dickerson's rights under the Fourth Amendment of the United States Constitution. See, Wilson v. Arkansas, 514 U.S. 927

(1995).

Additionally, the “particular circumstances” surrounding the search of Mr. Dickerson’s home did not allow the Boston Police to bypass the search warrant’s knock and announce requirement. See, Richards v. Wisconsin, 520 U.S. 385, 394 (1997). The record fails to establish that the particular circumstances surrounding the search of Mr. Dickerson’s home gave Boston Police “a reasonable suspicion that knocking and announcing their presence...would be dangerous or futile, or...would inhibit the effective investigation of a crime.” See, Id.

WHEREFORE, Earl Dickerson requests that this Court rule the search of his home at 9 Westcott Street, apartment #2, Dorchester Massachusetts on March 9, 2004, as unlawful and a violation of his Fourth Amendment rights and suppress all evidence, direct and derivative, obtained via the unlawful search of his home.

Earl Dickerson
By His Attorney,

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